

COPY

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF OHIO

WESTERN DIVISION

BRIAN WURZEL,)	
)	
)	
Plaintiff,)	
)	
vs.)	Case No. 3:09CV498
)	
WHIRLPOOL CORPORATION,)	Judge Carr
)	
)	
Defendant.)	

- - -

DEPOSITION OF MARK G. ISSA, D.O., F.A.C.C.

DATE: October 29, 2009 at 9:07 a.m.

PLACE: Northwest Ohio Cardiology
Consultants
2940 North McCord Road
Toledo, Ohio

REPORTER: Casey G. Schreiner, RMR-RDR
Notary Public

- - -

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17 ALSO PRESENT:

18 Jen Lenhart
Brian Wurzel
19

20 - - -
21
22
23
24

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I N D E X

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EXAMINATION

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24

1 MARK G. ISSA, D.O., F.A.C.C.,
2 a Witness herein, called by the Defendant as if upon
3 Examination, was by me first duly sworn, as
4 hereinafter certified, deposed and said as follows:

5 EXAMINATION

6 BY MR. WIT:

7 Q. Good morning, Dr. Issa. My name is Adam
8 Wit. I represent Whirlpool Corporation. We're here
9 today for your deposition in a matter that, obviously,
10 you're not named, but in a lawsuit between one of your
11 patients, Brian Wurzel, and Whirlpool Corporation.

12 Have you ever had your deposition taken
13 before?

14 **A. Yes.**

15 Q. In matters involving --

16 **A. My patients.**

17 Q. Just a little bit about the ground rules
18 so that it's on the record and we understand each
19 other. Obviously it's a question-and-answer format.
20 I generally will be asking the questions and you will
21 be giving the answers.

22 Your answers have to be verbal, because
23 the court reporter has to take it down. So no uh-huhs
24 or huh-uhs or shrugs of the shoulders or nods of the

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1 head because it's not really very well recorded. If
2 you do that, I'm probably going to prompt you for a
3 verbal answer. I'm not trying to be smart with you.
4 I'm just trying to get your answer clear for the
5 record.

6 If there is a point in time where you
7 don't understand what I'm asking you, which is
8 possible, let me know, and I can try and rephrase the
9 question, she can read it back. I just want you to
10 understand the question so that you can answer it
11 accurately; is that fair enough?

12 **A. True.**

13 Q. If you don't tell me that you don't
14 understand or didn't hear, I'm going to assume that
15 you understood and your answer is accurate to that
16 question; is that also fair?

17 **A. Fair.**

18 Q. Could you give me a rundown of your
19 educational background?

20 **A. Well, I did my osteopathic education in**
21 **Kansas City. And then I did three years of internal**
22 **medicine at the University of Kansas; three years of**
23 **cardiology fellowship at the University of Kansas.**

24 Q. Okay.

1 **A. And I've been in private practice for 11**
2 **years with Northwest Ohio Cardiology Consultants.**

3 Q. Are you an O.D. or M.D.?

4 **A. It's a D.O.**

5 Q. D.O., I'm sorry. And you've been a
6 cardiologist here since the inception of your
7 practice?

8 **A. Correct.**

9 Q. How long has that been? Sorry, I didn't
10 catch that.

11 **A. About 11 years.**

12 Q. 11 years. Forgive me for my ignorance.
13 Are there subspecialties within cardiology, or if
14 you're a cardiologist, you're a cardiologist?

15 **A. Yeah. I'm a general cardiologist. I'm**
16 **not invasive, not interventional cardiologist.**

17 Q. What does that entail?

18 **A. Management of patients and doing stress**
19 **tests, echoes, noninvasive testing, diagnostic cardiac**
20 **catheterization.**

21 Q. No surgical?

22 **A. No surgery.**

23 Q. Can you tell me a little bit about this
24 organization, the Northwest Ohio Cardiology

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1 Consultants?

2 A. We have been a single-specialty group,
3 and we have been in practice for over 20 years. We
4 are the largest group of cardiologists in the area of
5 Toledo.

6 Q. And how many cardiologists practice?

7 A. Currently 22.

8 Q. 22.

9 A. 22 or 24. It's hard to keep up with our
10 numbers.

11 Q. Have you been involved in any research or
12 professional publications in the area of cardiology?

13 A. Our group is involved in research. We
14 have multiple trials and research that we're all
15 involved in as private cardiologists.

16 Q. Involving what areas of study?

17 A. I mean, again, there is different
18 studies. I mean, I cannot specify one. There is
19 several. We have several hospitals that we are
20 involved with the research protocol here.

21 Q. Any publications that you've authored?

22 A. No.

23 Q. All right. The purpose of today is for
24 me to gain an understanding of your treatment of

1 Mr. Wurzel, primarily. That's what we're going to be
2 talking about mostly.

3 **A. Uh-huh.**

4 Q. And obviously the area of treatment, as I
5 understand, is for angina?

6 **A. Correct.**

7 Q. Obviously, you're familiar with that
8 condition?

9 **A. Very familiar.**

10 Q. Have you been treating patients with
11 angina since you began practicing in the field of
12 cardiology?

13 **A. Correct.**

14 Q. And can you just describe for me in
15 general what angina is?

16 **A. Angina is a description of chest pressure**
17 **or chest tightness that occurs, usually with activity,**
18 **lasts for about five to 10 minutes. It's exertional;**
19 **it's relieved with rest. If it has something to do**
20 **with spasms, it might not go with rest. Sometimes it**
21 **could relieve with nitroglycerin.**

22 **The patient also describes radiation of**
23 **the pain, pain to the shoulder, arm; sometimes patient**
24 **could complain of back pain as sign of angina pain.**

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1 But it's typically effort-related symptoms.

2 Q. Effort-related symptoms, so physical
3 exertion?

4 A. Correct.

5 Q. Mental exertion, stress or --

6 A. It could do that.

7 Q. Are there different types of angina?

8 A. Again, there is angina that is related to
9 obstructive coronary artery disease; and there is also
10 angina that we call Prinzmetal angina that is related
11 to the spasm in the artery.

12 Q. So the first one you said was obstructive
13 coronary artery disease?

14 A. Disease, yes.

15 Q. And that would be the form of angina more
16 associated with physical exertion?

17 A. Correct.

18 Q. Okay. And then there is Prinzmetal?

19 A. Spasm, yes. Instead of using the
20 Prinzmetal, use spasm.

21 Q. Prinzmetal or Prinzmetal's?

22 A. Prinzmetal, P-r-i-n-z-m-e-t-a-l.

23 Q. So that's associated with spasms?

24 A. Correct.

1 Q. And that would be -- the form of
2 Prinzmetal angina would be the form of angina which
3 might exercise without warning or --

4 **A. Exertion.**

5 Q. -- exertion?

6 **A. Correct.**

7 Q. And when you say "spasm," can you
8 describe what you mean by that?

9 **A. Spasm is -- it's a narrowing in the**
10 **artery --**

11 Q. Uh-huh.

12 **A. -- related to hyperactive smooth muscle**
13 **in the arteries --**

14 Q. I'm sorry. Hyperactive?

15 **A. -- smooth muscle, so it causes a**
16 **narrowing, but it's just a transient, and it has**
17 **nothing to do with atherosclerotic disease.**

18 Q. Understood. Am I correct in saying that
19 there is really no way to predict when such a spasm
20 might occur?

21 **A. Correct.**

22 Q. Okay. Now, the -- the angina more
23 associated with obstructive coronary artery disease,
24 is that what is commonly referred to as angina

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1 pectoris?

2 **A. Pectoris.**

3 Q. Can you describe what happens to the body
4 with respect to each type of angina? Is it different?

5 **A. With angina pectoris, there is decreased**
6 **demand of the amount of the oxygen supply to the**
7 **heart --**

8 Q. Uh-huh.

9 **A. -- and subsequently to the body. Again,**
10 **if it persisted for a long duration, it could lead to**
11 **a myocardial infarction.**

12 Q. Heart attack?

13 **A. Heart attack. Prinzmetal angina is a**
14 **spasm that could lead to a heart attack, but that's**
15 **very rare. And it does the same thing. It's**
16 **basically a spasm. With a spasm in the artery, there**
17 **is also decrease in the blood flow to the heart and to**
18 **the body, as well.**

19 Q. And when an individual has a spasm
20 associated with Prinzmetal angina, how might that
21 manifest itself in terms of symptoms?

22 **A. Chest discomfort.**

23 Q. Chest discomfort. What about symptoms
24 such as lightheadedness, dizziness, fatigue?

1 **A. Very unlikely.**

2 **Q. Unlikely?**

3 **A. Uh-huh.**

4 **Q. So simply chest discomfort?**

5 **A. Usually it's chest discomfort, yes.**

6 **Q. Is this a condition that once an**
7 **individual has it -- is it curable?**

8 **A. Again, with a spasm, it's very hard to**
9 **predict when the patient is going to have spasm. We**
10 **have patients that are very stable on medical**
11 **management for many, many years. And just for no**
12 **reason, nobody knows the exact etiology when the**
13 **patient start having more symptom, it could happen**
14 **again.**

15 **Q. Okay.**

16 **A. And usually I say although it's stress,**
17 **it could cause a spasm; but usually it's more a**
18 **nocturnal symptom, mainly occur at nighttime.**

19 **Q. The Prinzmetal?**

20 **A. Prinzmetal angina. Usually occur at**
21 **night, and also early morning.**

22 **Q. Okay. Do you know, is there any**
23 **explaining as to why that is?**

24 **A. Again, this is something that is not very**

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1 well understood.

2 Q. Okay.

3 A. That's why the treatment for it, we will
4 probably go over it later on, if that's one of the
5 questions or --

6 Q. Yeah.

7 A. I can usually give long-acting nitrate
8 and calcium channel blocker.

9 Q. That was my next question. What's the
10 general treatment plan for someone with Prinzmetal
11 angina?

12 A. It's nitrate, long-acting nitrate,
13 calcium channel blocker, and also, in some cases, we
14 use magnesium oxide. There are also several -- there
15 has been some speculation that low magnesium might
16 cause some spasm. And the other thing, there is a new
17 drug called Ranexa that also -- an agent that we have
18 been using recently, last couple of years, to help
19 with this. Reduces the spasm.

20 Q. So would it be fair to say that the
21 primary course of treatment would be pharmaceutical?

22 A. Correct.

23 Q. Okay. No invasive procedures?

24 A. No invasive procedure, no.

1 Q. Okay. And it sounds like the medications
2 that you described are intended as prophylactic or
3 preventative measures to stop a spasm before it
4 occurs?

5 A. **It happens.**

6 Q. As opposed to what I understand to be the
7 sublingual nitro, which is taken once a spasm occurs
8 to alleviate the symptoms?

9 A. **Correct.**

10 Q. Are there different levels of severity
11 for Prinzmetal angina?

12 A. **I mean, there are different levels,**
13 **absolutely. I mean, there is some mild cases, some**
14 **moderate.**

15 Q. Yes.

16 A. **And there are also some cases that are**
17 **very severe that are very refractory for treatment**
18 **that the patient require hospitalization.**

19 Q. And how do you measure the level of
20 severity for the condition?

21 A. **It's really -- again, depends on what**
22 **kind of complications the patient -- I mean, if the**
23 **patient has myocardial infarction from the Prinzmetal**
24 **angina, sometimes the spasm is so severe that it cause**

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1 dissection of the artery from the severe spasm. But
2 those, we are talking about very rare cases. And
3 between my training and just my private practice, I've
4 seen only one case --

5 Q. Okay.

6 A. -- that severe.

7 Q. Is there any correlation between the
8 severity of the condition and the frequency of the
9 spasms?

10 A. No.

11 Q. No. So that wouldn't be an indicator of
12 how severe the condition is?

13 A. Correct.

14 Q. All right. Is there any way to describe
15 in general terms how Prinzmetal angina might affect an
16 individual's life on a daily basis, or would you have
17 to describe it specific to a given patient?

18 A. It has to be different from patient to
19 patient. Again, the other thing is a chest pain or
20 angina is a very subjective term. I mean, patient
21 could describe chest pain; doesn't mean that it's
22 related to Prinzmetal angina or angina. Patient could
23 get different kind of chest pain.

24 Q. Such as?

1 A. I mean, anytime a patient get diagnosed
2 with heart disease, anytime they get any kind of chest
3 pain, regardless if it's angina or not, they could
4 think this could be angina, too. Sometimes reflux
5 disease could cause chest pain, and could give the
6 same kind of symptoms, as well.

7 Q. Can Prinzmetal angina lead to death?

8 A. Very rare.

9 Q. Very rare?

10 A. Yeah.

11 Q. And the -- that would typically be
12 associated with a heart attack?

13 A. With a heart attack, with severe spasm,
14 with dissection in the artery, or in just ventricle
15 arrhythmias. Again, just, as I said, very, very rare,
16 and just like with dissection in the artery or
17 complete occlusion from the artery and cause a
18 ventricular arrhythmia.

19 Q. When you say "very rare," can you
20 quantify that in terms of percentage?

21 A. I cannot. I mean, it's just -- I have --
22 probably one in 10,000.

23 Q. All right.

24 A. Again, don't quote me for that one,

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1 **because I'm -- it's just a rare thing.**

2 Q. Understand.

3 **A. And Prinzmetal also is a rare condition.**

4 **We don't see it that often either.**

5 Q. Oh, no. So more likely to see the angina
6 pectoris than the Prinzmetal?

7 **A. Correct.**

8 Q. Is there any -- typically any type of
9 advanced warning that a patient may have as an
10 indicator that a spasm is coming? Do you understand
11 what I mean?

12 **A. I understand. Again, those kind of**
13 **patients, they'll have the chest pain, and usually**
14 **they get -- they could take the nitroglycerin. That**
15 **should give them immediate relief.**

16 Q. So the chest pain would be the indicator
17 that --

18 **A. Indicator, yes.**

19 Q. Now, obviously, you're familiar with
20 Mr. Wurzel?

21 **A. Yes.**

22 Q. He's a patient of yours?

23 **A. Uh-huh.**

24 Q. And my understanding is that he's been

1 diagnosed with Prinzmetal angina?

2 **A. Correct.**

3 Q. And do you know when he was diagnosed
4 with that condition?

5 **A. I think about two years ago when I sent**
6 **him for a cardiac catheterization.**

7 Q. Two years ago, so --

8 **A. About 2007, sometime in that range.**

9 Q. Between October, November of 2007?

10 **A. Something like that, I don't have his**
11 **chart with me.**

12 Q. That's okay. As I understood it, the
13 diagnosis resulted from --

14 **A. Cardiac catheterization.**

15 Q. Right. Performed by Dr. --

16 **A. Stockton.**

17 Q. Stockton did the catheterization?

18 **A. Yes.**

19 Q. And I guess how did it come about that he
20 was diagnosed with Prinzmetal angina?

21 **A. Mr. Wurzel, he present to my office with**
22 **recurrence of his chest pain, and so -- then he**
23 **described different kind of pain. I just was not sure**
24 **if I was dealing with angina, with something in the**

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1 artery, so I recommended cardiac catheterization for
2 him after having equivocal stress test.

3 So the cardiac catheterization, initial
4 diagnostic showed obstruction of the left anterior
5 descending artery, about 80 to 90 percent, by Dr.
6 Stockton. And then when he repeated the cardiac
7 catheterization, he gave him nitroglycerin before he
8 proceeded with the angioplasty, the artery was
9 completely normal, which confirmed the diagnosis of
10 spasms, Prinzmetal angina.

11 Q. So when he first presented to you, you
12 were unsure of what was causing the pain?

13 A. Correct.

14 Q. So was it the fact that a spasm occurred
15 as Dr. Stockton was performing the procedure that is
16 an indicator that he has Prinzmetal angina?

17 A. Correct.

18 Q. How did he come to be a patient of yours?

19 A. He was --

20 Q. Mr. Wurzel, that is?

21 A. Yes, I understand. He was referred by
22 his family doctor, Dr. Hiestand, after having
23 equivocal -- abnormal stress test, let's put it that
24 way. Abnormal stress test.

1 Q. Abnormal in what manner?

2 A. The nuclear portion said equivocal for
3 ischemia. "Equivocal," that means there is a small
4 area that the radiologist who interpreted the study,
5 he could not say for sure was normal or abnormal. So
6 that's why Dr. Houston requested a cardiology opinion.

7 Q. And what did the stress test that
8 Mr. Wurzel underwent entail?

9 A. He walks on treadmill for three minutes;
10 every three minutes, they increase the stage and the
11 speed. And then when he achieve 85 percent of target
12 heart rate, we inject with Cardiolite. And after he
13 gets injected with Cardiolite, then we scan his heart.

14 Again, I don't have the full report of
15 the stress test. I think the EKG portion was normal
16 at that time. But I said the only problem was the
17 nuclear portion. The Cardiolite images showed this
18 abnormality.

19 Q. Abnormality in what regard?

20 A. That's why I'm indicating that there
21 was -- there was a small area that the radiologist
22 could not say for sure if it represented ischemia or
23 it could be normal.

24 Q. Okay. And that's why they referred for

Page 21

1 cardiac -- cardio --

2 **A. For cardiac valuation.**

3 Q. Thank you.

4 **A. To see if the patient needed cardiac**
5 **catheterization or not.**

6 Q. I understand. And actually, by the time
7 he saw you, he already had one cardiac
8 catheterization; is that correct?

9 **A. That was several years before then.**

10 Q. Right. For the same reason?

11 **A. For different kind of chest pain.**

12 Q. Had that procedure resulted in a
13 diagnosis of any kind that you are aware of?

14 **A. No.**

15 Q. It had not?

16 **A. It was normal.**

17 Q. Because presumably there was no spasm?

18 **A. There was no spasm back then.**

19 Q. So how was Mr. Wurzel's condition
20 described to you when you first saw him?

21 **A. The first time?**

22 Q. Yes.

23 **A. At that time, I just was not sure if his**
24 **symptom were all cardiac, and that's why I opted at**

1 that time to refer him for another diagnostic modality
2 other than cardiac catheterization, was a CT angiogram
3 of the heart.

4 Q. When you say you weren't sure if it was
5 cardiac, can you explain what you mean by that?

6 A. There is other causes of chest pain
7 besides just angina.

8 Q. Such as?

9 A. Gastroesophageal reflux disease;
10 sometimes a muscle strain, patient could describe
11 symptoms. And that's why I -- at that time, it just
12 could be a variety of things. And since the nuclear
13 portion at that time was not markedly abnormal, I
14 thought, well, probably instead of having him go
15 through a cardiac catheterization, I would rather have
16 him go through another test that is noninvasive. And
17 that's why I referred him to have a CTA, CT angiogram
18 of the heart.

19 Q. And what did that reveal?

20 A. Was normal.

21 Q. So what was it subsequent to that
22 procedure that caused you to send him for another
23 cardiac catheterization?

24 A. Then he came back after that -- I mean, I

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1 can't remember the date -- two or three months later.
2 He had a recurrence of his chest pain -- of chest
3 pain, and then he went to the emergency room, and the
4 workup at that time was negative.

5 And since he started having recurrent
6 episode of the chest pain and that required emergency
7 room visit, I thought, Well, there's always a
8 possibility that a CT angiogram, it could miss
9 coronary artery disease. So that's why I recommended
10 cardiac catheterization, since it was about four years
11 since his last cardiac catheterization. And I talked
12 with Mr. Wurzel, and he felt comfortable pursuing the
13 cardiac catheterization.

14 Q. Okay. It was the result of that -- the
15 diagnosis was the result of that second cardiac
16 catheterization?

17 A. Correct. Correct.

18 Q. I'm going to -- I want to review with you
19 some of the records that you produced in relation to
20 your visits with Mr. Wurzel.

21 A. Uh-huh.

22 (Court Reporter marked Issa
23 Exhibit 1.)

24 BY MR. WIT:

1 Q. I'm showing you a document which has been
2 marked as Issa Deposition Exhibit 1, which I believe
3 to be a letter from you to Mr. Wurzel's primary care
4 physician, Dr. Hiestand; is that correct?

5 **A. Correct.**

6 Q. And if I'm interpreting this letter
7 correctly, this describes a visit that you had with
8 Mr. Wurzel on May 22, 2007; is that right? I'm
9 looking at the date to the left.

10 **A. Correct, yeah.**

11 Q. Now, what would typically cause you to
12 generate a letter such as this?

13 **A. Anytime a patient come to see me, I**
14 **always refer -- I always dictate a letter to the**
15 **primary care doctor.**

16 Q. Okay.

17 **A. That's the standard.**

18 Q. All right. And what would -- what type
19 of information would you generally include in a letter
20 to the primary care physician?

21 **A. Whatever the patient described to me, and**
22 **whatever I have, information that I need to include in**
23 **the letter.**

24 Q. Information such as --

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1 **A. Like a stress test or --**

2 Q. Test results, diagnostic?

3 **A. Correct, yeah.**

4 Q. Treatment prescribed, would that be
5 something included?

6 **A. Correct, yeah.**

7 Q. All right. Does the date of this visit,
8 May 22, '07, correspond with the first time you saw
9 Mr. Wurzel?

10 **A. Again, I don't have the whole -- I don't**
11 **have my chart. It could be, or it could be I've seen**
12 **him before.**

13 Q. Okay.

14 **A. I don't have that whole record.**

15 Q. You're not sure without looking at the
16 whole chart?

17 **A. Yeah.**

18 Q. All right.

19 **A. It could be the first time. I'm not**
20 **sure.**

21 Q. At this point, however, I think -- is it
22 safe to say that his angina has not yet been
23 diagnosed?

24 **A. Correct.**

1 Q. And you indicate in this first paragraph
2 here he has a history of hypertension, has had
3 occasional episodes of non-exertional chest burning
4 that last for 15 minutes, relieved with nitroglycerin
5 within 15 minutes.

6 Now, this suggests to me at this point
7 that Mr. Wurzel is taking nitroglycerin. Am I correct
8 in that assumption?

9 A. **Correct, yeah.**

10 Q. Do you know who at this point had
11 prescribed nitroglycerin for him to use?

12 A. **His primary care doctor.**

13 Q. Dr. Hiestand?

14 A. **Yes.**

15 Q. Do you know when that was first
16 prescribed for him?

17 A. **No, I do not.**

18 Q. Did he, Mr. Wurzel, indicate to you how
19 often he was taking nitroglycerin at that point?

20 A. **According to the letter -- I do not**
21 **include that in the letter, no.**

22 Q. Do you recall --

23 A. **I'm pretty sure he -- probably on a daily**
24 **basis. I cannot answer this question, because I don't**

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1 **remember.**

2 Q. Okay. If you don't remember, you don't
3 remember.

4 **A. Yeah, I don't remember.**

5 Q. Other than the letter, are there notes or
6 any records, in a more detailed fashion, of what you
7 and Mr. Wurzel talked about at any one of your visits?

8 **A. Sometimes in the review of system, which**
9 **we have it in the computer.**

10 Q. Yeah.

11 **A. That could be also --**

12 Q. Okay.

13 **A. -- which is not included here.**

14 Q. I think I have those, but I don't think
15 they're any more detailed than the letter is. It's
16 just in a different format.

17 So this would be as detailed as it gets
18 in terms of how -- of describing your verbal
19 interaction with Mr. Wurzel?

20 **A. Correct.**

21 Q. Would it be common for an individual who
22 does not have angina to take nitroglycerin?

23 **A. Again, I said with reflux disease -- GI**
24 **symptoms, GI cause of chest pain could be relieved**

1 **with nitroglycerin.**

2 Q. All right.

3 **A. And does not have to be angina.**

4 Q. So nitroglycerin is not --

5 **A. Is not diagnostic at all.**

6 Q. I understand. So it could be prescribed
7 to treat reflux disease?

8 **A. Because the patient get the relief of the**
9 **symptoms with the nitro, then they take it. And I see**
10 **a lot of times primary care doctors prescribe that to**
11 **their patients.**

12 Q. So the fact that an individual is taking
13 nitroglycerin doesn't necessarily -- it does not
14 necessarily follow that that individual has angina of
15 some form?

16 **A. Correct.**

17 Q. For what conditions is nitroglycerin
18 generally prescribed, then, other than for angina or
19 the reflux?

20 **A. Again, it's not prescribed for the**
21 **reflux.**

22 Q. Right.

23 **A. But, again, a lot of times, the patients,**
24 **they get relief from the nitroglycerin, even though**

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1 they have GI symptoms so it's just -- and primary care
2 doctors just tell them -- since nitroglycerin is a
3 fairly benign drug, they prescribe nitroglycerin for
4 them.

5 Patients with hiatal hernia, they have
6 chest symptoms, and it's relieved with nitroglycerin.

7 Q. Do you know at this point in time, as of
8 the date of this visit, if Mr. Wurzel had an ongoing
9 prescription for nitroglycerin?

10 A. No.

11 Q. You don't know?

12 A. I don't know.

13 Q. Did you have occasion to review
14 Mr. Wurzel's medical records from Dr. Hiestand prior
15 to evaluating Mr. Wurzel?

16 A. I'm pretty sure.

17 Q. And no recollection from them as to
18 when --

19 A. No.

20 Q. Would that have been information that you
21 would have known at the time, prior to evaluating
22 Mr. Wurzel?

23 A. Possibly.

24 Q. Possibly. You also describe his -- if

1 you look down here under the Impression section, the
2 first sentence, you describe his chest pain as
3 atypical.

4 **A. Correct.**

5 Q. Could you describe for me what you mean
6 by that?

7 **A. Atypical symptoms is not conclusive to**
8 **cardiac cause of chest pain, the fact that it was not**
9 **exertional.**

10 Q. Uh-huh.

11 **A. So that's why I thought his chest pain's**
12 **atypical in nature, because it's not occurring with**
13 **exertion.**

14 Q. Okay. But atypical, do you mean that
15 it's something other than normal?

16 **A. What I mean, that we described -- if a**
17 **typical chest pain, that mean it's consistent with**
18 **angina pectoris.**

19 Q. Uh-huh.

20 **A. So I felt his chest pain is really**
21 **atypical for angina pectoris.**

22 Q. Understood. Because it was not
23 occurring --

24 **A. With exertion.**

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1 Q. And given that it was atypical, did you
2 form any opinion about what the cause of pain might
3 be?

4 A. One of the speculation I made, I said, it
5 could be due to gastroesophageal reflux disease.
6 Again, that's speculation.

7 Q. Understood. And what is generally
8 associated with that condition, gastroesophageal
9 reflux disease?

10 A. I mean, people could have dyspepsia, and,
11 again, we've had cases just of people have reflux
12 disease just with chest pain only, with chest pain,
13 and that is non-exertional.

14 Q. So the reflux disease and Prinzmetal
15 angina, do they present similarly?

16 A. They could have very similar symptoms,
17 yes.

18 Q. What's happening with reflux disease when
19 compared with Prinzmetal angina?

20 A. That reflux disease, a patient would not
21 have a spasm in the artery.

22 Q. Okay.

23 A. In Prinzmetal angina, they have spasm in
24 the artery.

1 Q. What is reflux disease?

2 A. It's just when the acid reflux goes back
3 from the stomach to the esophagus.

4 Q. So it's not a cardio --

5 A. It's not cardiac cause of chest pain,
6 yes.

7 Q. All right. You also described here that
8 he had hypertension.

9 A. Uh-huh.

10 Q. What is -- what is that?

11 A. Elevation of blood pressure.

12 Q. So that's high blood pressure?

13 A. High blood pressure.

14 Q. And you indicate under Current Diagnoses,
15 Hypertension-Essential, and then in parentheses,
16 benign.

17 Can you explain for me what that means?

18 A. Benign hypertension, that patient has not
19 had a complication from hypertension, talking about
20 kidney problems, like renal disease --

21 Q. Okay.

22 A. -- and other causes of that, cardiac or
23 that.

24 Q. Were you aware, was the hypertension

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1 controlled with medication?

2 **A. Yes.**

3 Q. And what are the medications you identify
4 here, Caduet, Chantix?

5 **A. No, Chantix is not. That's for smoking**
6 **cessation. And Metoprolol.**

7 Q. What is the first one, Caduet?

8 **A. Caduet is Norvasc and Lipitor. Lipitor**
9 **is just for hyperlipidemia, and Norvasc is**
10 **antihypertension.**

11 Q. And the last one, Metoprolol?

12 **A. Metoprolol, uh-huh, that's also**
13 **hypertensive drug, again, with other indications too.**

14 Q. Sure. Okay.

15 (Court Reporter marked Issa
16 Exhibit 2.)

17 BY MR. WIT:

18 Q. Okay. Showing you what has been marked
19 as Issa Deposition Exhibit 2, which is another letter
20 from you to Dr. Hiestand, this is one dated October 31
21 of '07, which I believe reflects a visit you had with
22 Mr. Wurzel on October 30; is that correct?

23 **A. Correct.**

24 Q. Are you scheduling, at this point in time

1 now, regular visits for Mr. Wurzel, or are these more
2 episodic in nature?

3 **A. More episodic in nature.**

4 Q. Okay.

5 **A. Because after his normal CAT scan of the**
6 **heart, we had him go back and see his primary care**
7 **doctor.**

8 Q. Okay.

9 **A. So this problem most likely was an**
10 **add-on, because he was recently seen in the emergency**
11 **room for recurrence of his chest pain.**

12 Q. He was seen in the emergency room
13 immediately prior to your seeing him on October 30?

14 **A. Correct, yeah.**

15 Q. For the same -- for chest pain?

16 **A. For the chest pain, yeah.**

17 Q. And that caused him to schedule another
18 appointment with you?

19 **A. Correct.**

20 Q. All right. And you indicate in the
21 letter here that he's having recurrent bouts of
22 substernal chest pressure?

23 **A. Uh-huh.**

24 Q. What do you mean by that?

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1 **A. Of chest pain.**

2 Q. Okay. Recurrent?

3 **A. Recurrent.**

4 Q. Any indication there in terms of how
5 often it's occurring?

6 **A. I mean, basically, me, I did not include**
7 **that in the letter, but he have recurrent bouts of**
8 **chest pain. I did not include the frequency.**

9 Q. Did you know how often it was recurring?

10 **A. I'm pretty sure at that time when I saw**
11 **him I knew, but I probably did not include -- I did**
12 **not include that in the letter. But to me, I felt he**
13 **was having enough symptoms to warrant further**
14 **evaluation.**

15 Q. And that further evaluation was --

16 **A. Cardiac catheterization.**

17 Q. All right. And apparently, he's still
18 taking it -- if I read this letter, he's still taking
19 nitroglycerin. You indicate, His symptoms relieved
20 promptly with nitroglycerin.

21 **A. Yes.**

22 Q. Is that still pursuant to a prescription
23 from Dr. Hiestand or is that from you?

24 **A. No, Dr. Hiestand.**

1 Q. Have you prescribed any course of
2 treatment or medication for Mr. Wurzel at this point?

3 **A. Until that time, no.**

4 Q. No. Did Mr. Wurzel describe to you what
5 happened to him in relation to his having to go to the
6 emergency room, other than to say that it was the
7 result of chest pain?

8 **A. No. I did not. I do not recall.**

9 MR. WIT: Okay. We'll go on to
10 the next one.

11 (Court Reporter marked Issa
12 Exhibit 3.)

13 BY MR. WIT:

14 Q. Dr. Issa, this is deposition Exhibit 3,
15 your letter to Dr. Hiestand dated December 13, 2007,
16 reflecting a visit you had with Mr. Wurzel on December
17 5th; is that correct?

18 **A. Correct.**

19 Q. Now, at this point in time, the
20 Prinzmetal angina had been diagnosed?

21 **A. Yes.**

22 Q. Because looking at the chart, I think
23 that the cardiac catheterization occurred in early
24 November of '07?

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1 **A. Correct. After my last visit, yes.**

2 Q. Right, right. Shortly after your visit
3 on October 30th.

4 **A. Uh-huh.**

5 Q. You indicate here that, "He had multiple
6 spasms in his LAD during his cardiac catheterization."

7 What is the LAD?

8 **A. That is the left anterior descending**
9 **artery. That is that artery that supplies the**
10 **internal wall of the heart.**

11 Q. Okay. And you also indicate -- I'm
12 sorry.

13 You indicate, "He has had rare episode of
14 chest pain that relieved with nitroglycerin." That's
15 the last sentence in the history section.

16 **A. Yeah.**

17 Q. What do you mean by "rare"?

18 **A. Two or three times per month.**

19 Q. Two or three times per month is rare?

20 **A. Yeah.**

21 Q. All right.

22 **A. It's not occurring on a daily basis.**

23 **"Rare," or probably I should have said "infrequent."**

24 **But I did not quantify the amount of frequency.**

1 Q. Sure. I see that. So "rare" would be
2 two to three times per month. What would "frequent"
3 be?

4 **A. Frequent, daily.**

5 Q. All right. And so this -- is this what
6 Mr. Wurzel, then, has reported to you that he had been
7 having?

8 **A. Correct.**

9 Q. All right. Now, is there -- is there a
10 difference between stable versus unstable angina?

11 **A. Correct.**

12 Q. Are those two terms of art, so to speak?

13 **A. Correct, yeah.**

14 Q. What is stable angina?

15 **A. Stable angina is when the patient have**
16 **predictable frequency of his symptoms; unstable angina**
17 **when the patient start having increased frequency of**
18 **his symptoms, increased duration of his symptoms, and**
19 **also new type of discomfort.**

20 Q. What do you mean by "new type of
21 discomfort"?

22 **A. Patient having classic -- any new**
23 **description of his chest pain, any kind of new pain,**
24 **as we describe that.**

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1 Q. Okay. Would stable angina be what would
2 normally be associated with angina pectoris, the form
3 of angina that's associated with exertion?

4 A. With exertion, that patient, we do not
5 need to increase -- we do not need to adjust their
6 medications. They can predict when their symptoms
7 come.

8 Q. You know when it's going to happen?

9 A. Correct.

10 Q. Would unstable angina be normally
11 associated with the Prinzmetal type where the spasms
12 are unpredictable and can occur at rest?

13 A. It can occur at rest, yeah. But -- sure.
14 I mean, we could consider Prinzmetal as -- start
15 having recurrence. But that's where we're talking
16 about totally different etiology. We are talking
17 about angina pectoris from atherosclerotic disease,
18 from coronary artery disease. So that would not
19 follow the classic description.

20 Q. What would not follow? I'm sorry.

21 A. The Prinzmetal angina, because it's just
22 really -- Prinzmetal angina does not occur with
23 exertion.

24 Q. Right. But I guess what I'm trying to

1 figure out is whether or not Prinzmetal angina is
2 normally associated with the unstable type of angina?

3 A. It would not, because it's a different
4 kind of symptom. No, we don't classify it as such.

5 Q. Okay. How is it classified?

6 A. Again, it's due to spasm. When we're
7 talking about the definition of unstable angina, we're
8 describing the patient who have atherosclerotic
9 coronary artery disease.

10 Q. All right.

11 A. But we are dealing here with a spasm kind
12 of nature. We're not dealing with the same etiology.

13 Q. I understand. Did you discover any level
14 of coronary artery disease with Mr. Wurzel?

15 A. No.

16 Q. None?

17 A. None.

18 Q. Now, there are points in time where
19 Mr. Wurzel sees another doctor in this practice; is
20 that correct?

21 A. Uh-huh.

22 Q. I think he's also seen Dr. Rough and
23 Dr. Stockton?

24 A. Whoever is covering for me. We have a

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1 practice in Fremont, so whatever doctor is working
2 that day, then the patient would be seen.

3 Q. Okay.

4 A. That's part of our group.

5 (Court Reporter marked Issa
6 Exhibit 4.)

7 BY MR. WIT:

8 Q. Okay. Exhibit 4, I guess, is this same
9 type of letter, except in a different format. Are you
10 familiar with this format?

11 A. Yes.

12 Q. Now, this reflects a letter that you
13 drafted for Dr. Hiestand. The letter is dated
14 3-13-08, if I'm reading this correctly.

15 A. Correct.

16 Q. And actually, that also refers to the
17 date when you saw Mr. Wurzel on this occasion; is that
18 right?

19 A. Yes.

20 Q. Now, is this a regularly scheduled visit
21 at this point?

22 A. Yes.

23 Q. If I look through the chart, it appears
24 that you're scheduling visits with Mr. Wurzel every

1 three months or so. Does that sound about right?

2 **A. Probably.**

3 Q. Is that consistent with someone you're
4 treating for Prinzmetal angina?

5 **A. Yes.**

6 Q. Now, the format that we're looking at
7 here, what is -- why do we see this in this format
8 versus the previous letter that we --

9 **A. Because now we've gone to electronic**
10 **computer.**

11 Q. Is this the type of format that you were
12 describing before in terms of -- when I asked you
13 whether or not that was something more detailed --

14 **A. I thought we had electronic back then,**
15 **but I -- yeah.**

16 Q. I think you did. I mean, I've just shown
17 you a different --

18 **A. Yes. I mean, that's why -- I can't**
19 **remember when we had the electronic charting to work**
20 **with the system. So I was expecting something like**
21 **this.**

22 Q. Okay. All right. I suppose this is more
23 detailed to the extent that it breaks down the review
24 of systems, whereas your letters do not?

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1 **A. Yeah.**

2 Q. But as I read it, the descriptions in
3 terms of the history of present illness and what the
4 patient may have described to you during the visit,
5 that remains the same between the electronic format
6 and the letter?

7 **A. Correct.**

8 Q. So this is the next time that you see
9 Mr. Wurzel following your visit in December?

10 **A. Correct.**

11 Q. All right. So it's been -- now, at this
12 point, have you -- have you prescribed -- actually, it
13 looks like, as of December, you prescribed
14 nitroglycerin -- Nitrolingual?

15 **A. Uh-huh.**

16 Q. Is that right?

17 **A. Yes.**

18 Q. I'm looking back at your letter from
19 December 13.

20 **A. Okay.**

21 Q. Nitrolingual, .4 milligrams p.r.n.

22 **A. Uh-huh.**

23 Q. What does p.r.n. stand for?

24 **A. As needed.**

1 Q. And .4 milligrams, is that a typical
2 dosage?

3 **A. Yes.**

4 Q. And how is that -- how is Nitrolingual
5 taken?

6 **A. Sublingual.**

7 Q. Meaning?

8 **A. Underneath the tongue.**

9 Q. It dissolves?

10 **A. Let dissolve underneath the tongue.**

11 Q. How many of those -- it comes in like a
12 tablet form?

13 **A. 25 tablets.**

14 Q. Do you give him a refill on that if he
15 needs it?

16 **A. Yes.**

17 Q. How many?

18 **A. I do not recall. Usually we give 11**
19 **refills for the patient. I would -- each bottle has**
20 **25, but how frequent -- I mean, that's a standard.**

21 Q. Okay. Do you know how often Mr. Wurzel
22 refilled the prescription?

23 **A. No.**

24 Q. Would there be records of that somewhere

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1 in your office?

2 A. No.

3 Q. And Procardia, is that also for the
4 angina?

5 A. Correct.

6 Q. What is that?

7 A. It's a calcium channel blocker that
8 relieves the spasm.

9 Q. So that's more preventative in nature?

10 A. Correct.

11 Q. And Procardia XL, one by mouth daily, how
12 does that compare to a normal -- strike that.

13 Is that a typical prescription for --

14 A. Actually, it's a small dose, too.

15 Q. Small dose?

16 A. Yes.

17 Q. What would be a normal dose?

18 A. You always start with a small dose,
19 because also Procardia is antihypertensive agent. So
20 I don't want to prescribe a drug that could cause the
21 patient to have hypotension and have dizziness
22 symptoms. So usually we start with 30 and titrate up
23 a half milligram on Procardia.

24 Q. So referring back to your March '08

1 visit, there are a couple of other medications listed,
2 aspirin and fish oil. What are those designed to do
3 in Mr. Wurzel's circumstance?

4 **A. I mean, aspirin I prescribe because it**
5 **was -- since he is smoker, I felt it would be good**
6 **idea just to have it, to prevent stroke and also**
7 **myocardial infarction.**

8 **Fish oil is antioxidant, and I prescribe**
9 **majority of my patient that have also hyperlipidemia.**

10 **Q. Are you familiar with any side effect**
11 **associated with the medications you've prescribed to**
12 **Mr. Wurzel as of March of '08?**

13 **A. What is your question? Are you asking**
14 **about if he had complained of any side effects?**

15 **Q. No, whether or not the medications he's**
16 **taking at this point in time are associated with any**
17 **particular side effects or potential side effects.**

18 **A. I mean, absolutely. Anytime I have**
19 **prescribed a patient medication, I'm aware --**

20 **Q. What are the kind of side effects for the**
21 **nitroglycerin?**

22 **A. Headache and hypotension.**

23 **Q. Dizziness?**

24 **A. Dizziness could be as a result of**

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1 hypotension, which could lead to dizziness,
2 lightheadedness.

3 Q. Okay. And what about the Procardia?

4 A. Usually patients complain of edema in the
5 lower extremity.

6 Q. What does that mean?

7 A. Swelling in the legs.

8 Q. Uh-huh.

9 A. Also, patient could complain of headache,
10 other thing could be dizziness. I said that's why we
11 started with a small dose, just to make sure the
12 patient going to be able to tolerate.

13 Q. Of course.

14 A. And dizziness, lightheadedness, typically
15 there's more predictable pattern to it, and the
16 patient will describe orthostatic changes. That's
17 when they change position, they get more dizzy,
18 lightheaded.

19 Q. Do you know or do you recall whether
20 Mr. Wurzel complained to you of experiencing any
21 dizziness or lightheadedness?

22 A. I don't recall that.

23 Q. You don't recall one way or another or,
24 no, he didn't?

1 A. I don't recall he complained of
2 dizziness. Again, I don't have it in the chart, so I
3 don't recall.

4 Q. All right. Would that -- had he
5 complained of that type of symptom, would that be
6 something you would normally record in these -- the
7 documents we're looking at?

8 A. Typically, yes.

9 Q. All right. Do you know if any of the
10 medications in question come with any type of warning
11 or caution about operating heavy machinery?

12 A. I'm not aware of anything. I mean, I'm
13 not aware of that, because usually both Procardia and
14 nitrate is a very benign drug, and most of the -- very
15 well-tolerated drugs, as well.

16 Q. Do you know if they come with any type of
17 cautionary or warning that they may cause dizziness?

18 A. Well, I'm pretty sure if you look it up
19 in the PDR, any drug, even Tylenol, is going to give
20 you a warning.

21 Q. Sure.

22 A. So, I mean, sure, that's why the patient,
23 they get the printout from the pharmacy. But again,
24 just if you look at any drug, PDR is going to show you

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1 **this, this, and this. But this is not the typical**
2 **things that we expect with those kind of drugs.**

3 Q. Okay. So you indicate in your March '08
4 letter that, I guess, "Since last visit, he had rare
5 episodes of chest tightness, relieved promptly with
6 nitroglycerin, otherwise denied any cardiac symptoms."

7 So, again, the rare episode would, to
8 you, mean two to three times a month?

9 **A. Month, yeah.**

10 Q. "Otherwise denied any cardiac symptoms."
11 What do you mean by that?

12 **A. Such as syncope.**

13 Q. Meaning?

14 **A. Loss of consciousness.**

15 Q. Okay. So he said he hadn't passed out?

16 **A. No passing out, no.**

17 Q. And this is what Mr. Wurzel reported to
18 you?

19 **A. Correct, yeah.**

20 Q. So do I -- so if I understand -- if I
21 interpret this sentence, do you mean that Mr. Wurzel
22 has told you that between December and March he's had
23 approximately two to three spasms per month and has
24 not lost consciousness?

1 **A. Correct.**

2 Q. And that, to you, indicated rare
3 episodes?

4 **A. I thought he was doing -- he was very**
5 **stable on the medication, yes.**

6 Q. Okay. Now, stable, not in the sense that
7 he could predict when the spasms would occur, right?

8 **A. I mean, nobody can predict that.**

9 Q. Right. So what do you mean -- when you
10 say you thought he was stable, what do you mean?

11 **A. Because I did not feel there was any**
12 **reason to adjust his medication. If I felt he was**
13 **unstable in any way, then I would have considered**
14 **changing his medication or his dosage. So I felt that**
15 **he could be as stable as possible.**

16 Q. Did Mr. Wurzel indicate to you that he
17 had had to go to the health center at his job because
18 of a spasm during this period of time?

19 **A. No, it's not in the letter, so I don't**
20 **remember.**

21 Q. Okay. That he had a spasm to such a
22 degree that he felt he couldn't work anymore, did he
23 tell you that?

24 **A. No.**

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1 Q. Okay. Had he --

2 A. I don't recall. It's not in the letter.

3 Q. Had he told you information such as that,
4 would that have changed your opinion about the
5 severity or nature of the condition at that point?

6 A. I would have considered adjusting his
7 medication.

8 Q. In what regard?

9 A. Increase the dosage on the Procardia.

10 Q. Okay. I guess had Mr. Wurzel been having
11 more frequent episodes than he was telling you, how
12 might that have changed your opinion or
13 recommendations in terms of the course of treatment?

14 A. I mean, just basically he just needed a
15 medication adjustment. And the other thing is just,
16 to me, he was not -- he did not have any admission to
17 the hospital in the meantime, either. Again, as far
18 as I know.

19 Q. As far as you know?

20 A. Correct.

21 MR. WIT: All right. This was a
22 document that previously has been marked.
23 I suppose we can mark it again.

24 (Court Reporter marked Issa

1 Exhibit 5.)

2 BY MR. WIT:

3 Q. This is Issa Deposition Exhibit 5. Are
4 you familiar with this document?

5 A. Yes.

6 Q. This is, as I read it, a release for
7 Mr. Wurzel to return to work in connection with your
8 March 13th appointment with him?

9 A. Yes.

10 Q. All right. How did it come about that
11 you provided this release to Mr. Wurzel? Do you
12 understand what I'm asking?

13 A. Yeah. I think the nurse just asked me if
14 the patient could -- again, I was asked to see if the
15 patient could go back to work, and I felt the patient
16 was stable to go back to work.

17 Q. Okay.

18 A. And then I -- HealthLink, they asked me
19 to provide something --

20 Q. HealthLink?

21 A. HealthLink is just a patient's -- the
22 employers. So they asked me to provide a letter that
23 I feel the patient is able to go back to work, and
24 that's what I did.

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1 Q. Okay. There is a lot of writing on this
2 document.

3 A. Yes.

4 Q. And from my vantage point, at least, it
5 appears to be many different handwritings.

6 A. Yes.

7 Q. Did you write any portion of this
8 document?

9 A. I told my nurse to write it down, and I
10 just signed it, yeah.

11 Q. So is the signature under Sincerely, is
12 that yours?

13 A. It's mine, yeah.

14 Q. But you didn't write your name below
15 that, did you, Dr. Mark Issa, there?

16 A. No.

17 Q. No. Do you know who wrote the rest of
18 this document?

19 A. A portion of it, my nurse wrote it, yeah.
20 It's my nurse, yeah.

21 Q. Do you know which portion your nurse
22 wrote?

23 A. The one, "Patient is not at any more risk
24 for sudden incompasation [sic]," that one she wrote;

1 **and then the patient's name; the "angina"; and the**
2 **rest, and "Fax to Whirlpool," but the rest of --**

3 Q. Who wrote, "Ok to drive a forklift or tow
4 motor," do you know? If you don't, that's fine.

5 A. **I don't recall, no. It's not my**
6 **handwriting.**

7 Q. Do you recognize that as your nurse's
8 handwriting, or you don't know?

9 A. **I don't.**

10 Q. All right. What's the name of your
11 nurse?

12 A. **Sara Michael. I think -- I think that's**
13 **her handwriting.**

14 Q. I don't mean to be hypercritical here,
15 but I notice -- I think -- is "incompasatation,"
16 that's not a medical term?

17 A. **No.**

18 Q. Is that just a misspelling of
19 "incapacitation"?

20 A. **Yes.**

21 Q. And when you signed the document, do you
22 recall what was written on it?

23 A. **Basically, I just told her to say that**
24 **he's okay to go back to work, so -- unless HealthLink**

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1 specifies what they want from us to write.

2 Q. Yeah. I guess what I'm asking you is
3 whether or not -- you don't recall what was written on
4 the document when you signed off on it?

5 A. I read the statement, but I did not pay
6 attention to this typo, the spelling, I mean.

7 Q. That's not what I'm asking. I'm just
8 basically -- I guess do you know if, "Ok to drive a
9 forklift or tow motor" was on there when you signed
10 it?

11 A. I'm not sure.

12 Q. All right. And when -- the verbiage,
13 Patient is not at any more risk for sudden
14 incapacitation, I guess what is meant by "sudden
15 incapacitation," loss of consciousness?

16 A. Loss of consciousness, yeah.

17 Q. Would that also encompass dizziness or
18 lightheadedness or fatigue?

19 A. Correct.

20 Q. It would?

21 A. I mean, anything that could unable him
22 from performing his job.

23 Q. Okay. Now, this sentence here says,
24 Patient not at any more risk for sudden incapacitation

1 than any other patient being treated for angina.

2 So Mr. Wurzel is being compared to other
3 individuals with angina?

4 **A. Yes.**

5 Q. All right. Is an individual who suffers
6 from angina, or Prinzmetal angina to be more specific,
7 since that's what we're dealing with here, at greater
8 risk for sudden incapacitation than an individual with
9 no heart condition at all?

10 **A. Slightly higher risk, yes.**

11 Q. And so per this language, Mr. Wurzel is
12 at the same risk for sudden incapacitation as any
13 other person suffering from angina?

14 **A. Correct.**

15 Q. But he's at a greater risk for sudden
16 incapacitation than someone who does not suffer from
17 angina, would that be accurate?

18 **A. Correct.**

19 Q. So why is -- I guess, why he is being
20 compared here to another individual with angina as
21 opposed to someone who doesn't suffer from angina?

22 **A. Basically I cannot say that his -- well,**
23 **because he's on medication for angina, so I cannot say**
24 **it's normal.**

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1 Q. Okay.

2 A. That's my statement. It's not completely
3 normal, no.

4 Q. All right.

5 A. But at the same time, it's just, I felt,
6 just taking nitro on p.r.n. basis is not a disabling
7 condition for a patient to not allow him to perform
8 his job. That's how I felt.

9 Q. Okay. Now, prior to authorizing this
10 release, did you speak with Mr. Wurzel about what his
11 job responsibilities were at Whirlpool?

12 A. Briefly.

13 Q. Okay.

14 A. And from what I recall from our
15 conversation, that he felt that he was able to perform
16 the job.

17 Q. He felt he was able?

18 A. Yes.

19 Q. Okay.

20 A. I never had any indication from him that
21 he was unable to perform his job.

22 Q. Understood. What -- what did he tell you
23 about what he did, what his job responsibilities were
24 at Whirlpool prior to you authorizing this release on

1 March 13, '08?

2 **A.** I mean, I thought mainly just -- nothing
3 that physical, that's what I remember. Nothing that
4 physical, just drive and operate machines.

5 Q. Did he tell you what type of vehicle he
6 drove?

7 **A.** We did not discuss that.

8 Q. Did he tell you what type of machinery he
9 operated?

10 **A.** I did not ask this question either. And
11 the other thing, I just -- we basically -- when the
12 patient comes from follow-up, we ask if the patient
13 able to perform the job.

14 Q. You ask the patient that?

15 **A.** I mean the patient, yeah.

16 Q. Are you familiar with the work
17 environment on the factory floor at Whirlpool?

18 **A.** No, I'm not.

19 Q. And I'm talking about the plant in Clyde,
20 Ohio.

21 **A.** No, I'm not.

22 Q. Okay. Did he describe for you at all
23 what the factory environment was within which he
24 worked?

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1 **A. No. And I don't think I even asked the**
2 **question.**

3 Q. So are you authorizing him to return to
4 work solely on the basis of his indication to you that
5 he felt he could do his job?

6 **A. Both indication and his symptoms. I felt**
7 **he's done fairly well, cardiac-wise, that he's able to**
8 **perform his job, yes, for any kind of job, actually.**
9 **It's not -- I did not even specify the job. I said**
10 **any kind of job, because I did not put him on any kind**
11 **of restriction.**

12 Q. Right. Were you aware at this point that
13 the type of vehicle Mr. Wurzel operated was a forklift
14 or a towmotor?

15 **A. I said I didn't ask. Because I did not**
16 **put him on any kind of restriction, it really did not**
17 **matter. I did not feel that there was really a**
18 **restriction on him.**

19 Q. So had you known, I guess, that he
20 operated a towmotor or a forklift in a factory
21 environment where he was in constant proximity to
22 pedestrians and machinery, that would not have changed
23 your opinion about his ability to return to work?

24 **A. No. I felt he was doing well.**

1 Q. And not to belabor this, but also, had
2 you known that his position involved the operating of
3 heavy machinery, which operated on an automatic
4 basis -- in other words, you couldn't simply and
5 easily turn it on and off -- that would not have
6 changed your opinion either?

7 **A. Correct.**

8 Q. And do you know Dr. Robert Marshall?

9 **A. I know Dr. Marshall, yes.**

10 Q. How do you know him?

11 **A. From work in Fremont.**

12 Q. Do you know him by professional
13 reputation?

14 **A. Correct.**

15 Q. Do you have an opinion of his
16 professional reputation?

17 **A. I mean, he's a good doctor. And he's**
18 **also -- I mean, we know each other socially. He was**
19 **on the faculty at Fremont Hospital.**

20 Q. All right.

21 **A. And I know him through other --**

22 Q. Okay. Were you aware that Dr. Marshall,
23 despite your release on March 13, '08, would not or
24 did not release Mr. Wurzel to return to work in order

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1 to drive a tow motor or forklift?

2 A. I've heard that, yes.

3 Q. And that he wouldn't release Mr. Wurzel
4 to do so unless he was spasm-free for at least six
5 months. Does that ring a bell?

6 A. Again, I don't recall that.

7 Q. All right. Do you have any understanding
8 in terms of why Dr. Marshall did that?

9 A. I felt probably that's the criteria that
10 he follows for patient -- probably Whirlpool has
11 certain criteria for patients who go back to work. So
12 every employer has different criteria, so --

13 Q. Do you have any opinion in terms of
14 whether or not Dr. Marshall's course of action in that
15 regard was reasonable or unreasonable, given
16 Mr. Wurzel's condition?

17 A. Again, I thought -- to me, I could say
18 that as a patient of mine, I felt he was able to
19 perform his work. And then it's really up to the
20 company and Dr. Marshall to decide if they feel
21 they're comfortable having him go back to work or not.
22 So that's all that's involved.

23 Q. So are you telling me, then, that you
24 have no opinion on whether Dr. Marshall's course of

1 action was reasonable or unreasonable?

2 **A. I thought it was unreasonable.**

3 Q. Unreasonable?

4 **A. Yes.**

5 Q. So you felt Mr. Wurzel could perform --

6 **A. His job, yes.**

7 Q. Did you have any discussion with

8 Dr. Marshall at this time surrounding this

9 disagreement?

10 **A. No, I don't recall that.**

11 Q. Okay. Do you have an understanding in
12 terms of -- I might have asked this already, in terms
13 of why Dr. Marshall imposed this restriction upon
14 Mr. Wurzel?

15 **A. No.**

16 **(Court Reporter marked Issa**
17 **Exhibit 6.)**

18 BY MR. WIT:

19 Q. This Exhibit 6 is another release to
20 return to work, dated the same date, but this one is
21 just in printed form.

22 Do you know, when looking at Exhibits 5
23 and 6, which document goes where, or what each
24 document is for?

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1 A. I think this is a form that we provided
2 first.

3 Q. Exhibit 5 or 6?

4 A. Exhibit 6.

5 Q. Okay. And who -- to whom do you provide
6 that?

7 A. Dr. Marshall, to the HealthLink, or the
8 patient's employer.

9 Q. Okay. All right. And then Exhibit 5,
10 where does that go?

11 A. They're both dated the same day, so I
12 wonder -- this is initial release to go back to work
13 that we provided, and Dr. Marshall wanted something
14 more specified.

15 Q. Is that what happened, or is that --

16 A. That's what happened, I'm pretty sure.

17 Q. All right. Was that -- your explanation
18 in that regard, is that pursuant to a conversation
19 that you had with Dr. Marshall?

20 A. Or my staff had had with Dr. Marshall's
21 staff. It doesn't mean that I spoke with
22 Dr. Marshall. It would be just his nurse spoke with
23 my nurse.

24 Q. You have no recollection of speaking with

1 Dr. Marshall on this occasion?

2 **A. I don't recall.**

3 Q. One way or another?

4 **A. Again, I'm not sure.**

5 Q. All right. So I have your next, I
6 guess -- I think this is your next regularly scheduled
7 visit with Mr. Wurzel on June 17, '08. I'll show you
8 the letter.

9 (Court Reporter marked Issa
10 Exhibit 7.)

11 BY MR. WIT:

12 Q. Showing you what is marked as Exhibit 7,
13 does this letter reflect your next regularly scheduled
14 visit with Mr. Wurzel?

15 **A. Yes.**

16 Q. Now, are you aware that you're seeing him
17 on June 17 was the same day that he had had a spasm at
18 work?

19 **A. Probably. But, again, it's just from the**
20 **letter. It says that he's had increased frequency of**
21 **his symptoms.**

22 Q. Right. Increased -- how much had they
23 increased? Do you recall what Mr. Wurzel reported?

24 **A. It said now he is having on daily basis.**

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1 Q. Daily?

2 A. Uh-huh.

3 Q. So that would now fall outside of the
4 rare spectrum?

5 A. Correct.

6 Q. And is that unusual for this type of
7 condition for spasms to occur on a daily basis?

8 A. I mean, again, what's -- Prinzmetal is
9 very unpredictable. We cannot predict how often it's
10 going to happen.

11 Q. All right. Is the level of frequency
12 that Mr. Wurzel is describing to you, is that an
13 indicator in terms of the nature or severity of his
14 condition?

15 A. It's -- it's not necessarily -- I mean,
16 it varies. Like sometimes we see symptoms more
17 occur -- as I said before, that occur more at
18 nighttime, also seasonal, too.

19 Q. Seasonal?

20 A. Uh-huh.

21 Q. Okay.

22 A. I've seen people have more symptoms
23 certain seasons than others.

24 Q. Which seasons?

1 **A. It varies. I mean, spring. Could be at**
2 **other times, too.**

3 Q. Did you have any conversation with
4 Mr. Wurzel during this visit about how many attacks
5 he's been having while at work?

6 **A. We didn't talk about work, because I**
7 **basically -- he just mentioned that they're occurring**
8 **on a daily basis to me.**

9 Q. All right. So there was no discussion
10 about his work at all?

11 **A. No. Just basically -- we didn't talk**
12 **about work at all. He just wanted to control his**
13 **symptoms.**

14 Q. So you didn't know what job Mr. Wurzel
15 was performing at the time?

16 **A. No.**

17 Q. Would that be correct?

18 **A. Correct.**

19 Q. Were you aware that he had been
20 describing his spasms -- well, strike that.

21 Were you aware that he had visited the
22 health center at work associated with his spasms?

23 **A. Again, I don't recall. I mean, I just --**
24 **there was nothing in my letter, so --**

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1 Q. Okay.

2 A. And to me, that was -- he just was having
3 frequent symptoms, so I didn't include.

4 Q. Well, did Mr. Wurzel ever tell you that
5 he described his symptoms to the health center as
6 including dizziness and lightheadedness?

7 A. I don't recall that dizziness,
8 lightheaded, because that's not in my letter.

9 Q. And if I understood your previous
10 testimony, that would be uncommon with Prinzmetal for
11 someone to have dizziness or lightheadedness
12 associated with the spasm?

13 A. Correct, yeah.

14 Q. So had you known that Mr. Wurzel was
15 identifying those symptoms in conjunction with his
16 condition, would that have changed your diagnosis or
17 course of treatment of him?

18 A. I probably would have considered some
19 other testing, too.

20 Q. Mr. Wurzel had his deposition taken back
21 in September, and I will tell you that he also
22 described dizziness and lightheadedness and fatigue as
23 symptoms he experienced in connection with his angina.

24 What -- knowing that, does that change

1 your opinion or potential course of treatment of
2 Mr. Wurzel?

3 A. I probably could have considered
4 adjusting his medication or could have done like a
5 long-term monitor, like a Holter monitor, to see if
6 we're dealing with any kind of arrhythmia as a cause
7 of his symptoms.

8 Q. Arrhythmia?

9 A. Yes.

10 Q. And --

11 A. Arrhythmia could mean a lot of things. I
12 mean, could be considered arrhythmia, supraventricular
13 tachycardia. Again, just to include that will not
14 give you with any type arrhythmia as a cause of him
15 symptom.

16 Q. All right. And how would you adjust his
17 medication to account for dizziness or lightheadedness
18 or fatigue, symptoms such as that?

19 A. Again, it just depends on what we find.

20 (Court Reporter marked Issa

21 Exhibit 8.)

22 BY MR. LANDRY:

23 Q. Before we get to this document, just to
24 follow up on the line of questioning I was just going

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1 through --

2 **A. Yeah.**

3 Q. -- had you known that Mr. Wurzel was
4 experiencing dizziness, lightheadedness, fatigue, in
5 connection with his spasms, would that have changed
6 your opinion of his ability to return to work?

7 **A. Would have, yes.**

8 Q. It would have?

9 **A. It would have, yes.**

10 Q. In what regard?

11 **A. I mean, if he's a machine operator, I**
12 **mean, that would be -- if he's having like dizziness,**
13 **lightheadedness, and especially if he had taken**
14 **nitroglycerin, that could aggravate his dizziness.**

15 Q. And so it would be unsafe for him to
16 operate the machinery?

17 **A. Possibly.**

18 Q. Or for him to operate the towmotor?

19 **A. Possibly.**

20 Q. Especially around other people, right?
21 Unsafe for himself and individuals around him?

22 **A. It's possible.**

23 Q. Okay. In those circumstances, if
24 Mr. Wurzel is experiencing dizziness or

1 lightheadedness or fatigue, might it also be unsafe
2 for him to be working in an unsupervised area; in
3 other words, by himself, when he's working around
4 heavy machinery, moving equipment?

5 **A. Again, it all depends on the severity of**
6 **the dizziness, too. It's just some people might feel**
7 **like slightly lightheaded. To me that's not really --**

8 Q. But is it possible that that would be
9 unsafe in those circumstances for him to be working by
10 himself?

11 **A. It's possible.**

12 Q. Okay. Let's talk about Exhibit 8 for a
13 moment.

14 **A. Uh-huh.**

15 Q. This is a release to return to work
16 signed by Dr. Roush in October of '08.

17 **A. Uh-huh.**

18 Q. So you didn't see Mr. Wurzel in September
19 or October of '08?

20 **A. No. Probably was out of town, and**
21 **Dr. Roush was covering for me, then.**

22 Q. Do you recognize any of the handwriting
23 on this document?

24 **A. I think it's the same nurse who wrote the**

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1 **first statement.**

2 Q. I notice, yeah, the same misspellings are
3 present on this one.

4 A. **Yeah.**

5 Q. But, I mean, the handwriting, to me, if
6 you compare Exhibits 5 and 8, are different. Is
7 there -- is there more than one -- and feel free to
8 look at both documents.

9 A. **Yeah. Again, as I say, we have several**
10 **nurses working in the office.**

11 Q. Okay. I guess -- it struck me as unusual
12 that two different nurses would so grossly misspell
13 "incapacitation" in the same way. I'm wondering, is
14 it common for one nurse just to copy what another
15 nurse has written?

16 A. **I'm pretty sure.**

17 Q. Do you know which nurses wrote these
18 documents?

19 A. **No, I don't. I know the first one, but**
20 **this one actually I'm not sure.**

21 Q. And I notice on Exhibit 8, "forklift" is
22 also missing a "K." And, you know, I'm not being
23 hypercritical here. Is that unusual for nurses to get
24 those words wrong so significantly?

1 **A. It's unusual. Again, if she's busy, and**
2 **she's just writing --**

3 Q. The initials here, and I'm looking at
4 Exhibit 8, are you familiar with those?

5 **A. No, I'm not.**

6 Q. Would a nurse generally initial a
7 document such that we could determine which nurse
8 wrote what?

9 **A. No.**

10 Q. Is there any way, any record, that would
11 reflect which nurse wrote which document of which
12 you're aware of?

13 **A. I know the first one is Sara Michael;**
14 **second one, probably Jody Clark.**

15 Q. Jody Clark?

16 **A. Yeah, just because I've been working with**
17 **the same nurses for a long time.**

18 Q. Sure, sure. Are you familiar with the
19 circumstances surrounding Dr. Roush's release to
20 return Mr. Wurzel to work in October of '08?

21 **A. No.**

22 Q. Did you have any discussions with
23 Dr. Roush surrounding why he released Mr. Wurzel to
24 return to work?

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1 A. No.

2 Q. Do you recall speaking with Dr. Marshall
3 following Whirlpool's receipt of this return to work
4 in October of '08?

5 A. No.

6 Q. You have spoken to Dr. Marshall on
7 occasion about Mr. Wurzel, have you not?

8 A. Again, I just don't recall.

9 Q. You don't remember?

10 A. I don't remember. I said it doesn't mean
11 that we did not speak. We speak about so many
12 patients, and this could be him, somebody else. I
13 don't recall that specifically.

14 Q. All right. So as you sit here today --

15 A. Yeah.

16 Q. -- you have no independent recollection
17 of having spoken with Dr. Marshall about Mr. Wurzel on
18 any occasion?

19 A. I said it could be possible. I said -- I
20 mean, we have our staff and his staff, we always
21 communicated about a lot of patients. So I don't know
22 if I directly spoke with Dr. Marshall, or our staff
23 directly spoke with Dr. Marshall's staff.

24 Q. Okay. Had you spoken with Dr. Marshall,

1 would there be a record anywhere of that conversation?

2 **A. Not necessarily.**

3 Q. Not necessarily. And I ask you because I
4 don't have one.

5 **A. Yeah, I don't -- that's what I'm saying.**
6 **It's just -- we speak with -- not every time I speak**
7 **with another colleague is it definite like that.**

8 Q. All right. So you wouldn't be able to
9 describe for me any conversation --

10 **A. No.**

11 Q. -- you had with Dr. Marshall about
12 Mr. Wurzel?

13 **A. No. I said I know Dr. Marshall very**
14 **well. So it's just -- not every time I'm going to**
15 **discuss with him something, I'm going to record that.**
16 **It could be, but I just don't recall that.**

17 Q. All right. Were you aware at any point
18 in time that Dr. Marshall was or had concerns
19 associated with returning Mr. Wurzel to work for
20 safety reasons?

21 **A. Yes. We're aware of that. That's why we**
22 **send the letter, and we felt our opinion was he was**
23 **stable.**

24 Q. All right. But you don't recall how you

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1 were aware of that, whether it was your staff telling
2 you, or whether Dr. Marshall telling you direct?

3 **A. Correct, yeah.**

4 Q. Do you recall what about Mr. Wurzel's
5 condition concerned Dr. Marshall?

6 **A. Again, the understanding I got, because**
7 **he had to take nitroglycerin on p.r.n. basis, that's**
8 **my recollection about the whole thing.**

9 Q. Okay. And do you have any opinion in
10 terms of why a doctor would be concerned about that in
11 relation to doing factory work?

12 **A. No.**

13 Q. No.

14 (Court Reporter marked Issa
15 Exhibit 9.)

16 BY MR. WIT:

17 Q. Before we get to this document --

18 **A. Yes.**

19 Q. -- how long, typically, would a spasm
20 last?

21 **A. About five minutes, and they get**
22 **immediate relief with nitroglycerin.**

23 Q. All right.

24 **A. Again, that's usually, but there's always**

1 **exceptions.**

2 Q. Yeah, I understand. And I guess when I
3 ask you that question, I'm asking you in the general
4 or typical sense.

5 **A. About five minutes.**

6 Q. All right. And typically, the spasm is
7 relieved by nitroglycerin?

8 **A. Yes.**

9 Q. How many tablets would an individual
10 typically have to take in order to relieve his or her
11 symptoms?

12 **A. Sometimes it was just one nitroglycerin.**

13 Q. Okay.

14 **A. But you tell the patient they could take**
15 **up to three, five minutes apart.**

16 Q. Up to three, five minutes apart?

17 **A. Yes.**

18 Q. And if the symptoms have not relieved --

19 **A. Then they need to call, go to the**
20 **emergency room.**

21 Q. They need to go to the ER, because what's
22 happening at that point, or what potentially is
23 happening at that point?

24 **A. We don't know. There is all -- again, it**

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1 could be just we're dealing with acute myocardial
2 infarction. That's what we always are concerned
3 about, the patient having myocardiac infarction.

4 Q. And while the spasm is occurring, within
5 that five-minute period while the patient is taking
6 nitroglycerin, does the individual typically
7 experience any symptoms other than chest pain?

8 A. Usually not.

9 Q. No. Does the individual typically
10 experience a heightened level of fatigue once the
11 spasm has concluded?

12 A. It could be related to nitroglycerin,
13 because the patient's taken the nitroglycerin.

14 Q. Does the nitroglycerin cause fatigue?

15 A. If the patient's blood pressure drops,
16 the nitroglycerin can cause some fatigue.

17 Q. Are you aware that Mr. Wurzel, on several
18 occasions after having experienced a spasm at work,
19 reported fatigue to such a degree that he had to go
20 home?

21 A. No, not to go home. Again, I just don't
22 recall those.

23 Q. Okay. Did you author -- well, strike
24 that.

1 So that wasn't something that you were
2 aware of?

3 **A. I don't recall that, no.**

4 Q. Had you been aware that that was
5 occurring, would that have changed the course of
6 treatment you prescribed for Mr. Wurzel?

7 **A. Possibly.**

8 Q. In what regard?

9 **A. I mean, again, probably would have needed**
10 **to adjust his medication further.**

11 Q. How so?

12 **A. I mean, I would have increased his**
13 **calcium channel blocker.**

14 Q. And what would that have done?

15 **A. To reduce the frequency of the spasm.**

16 Q. Okay. Had you been aware of this fatigue
17 that he was experiencing, would that have changed your
18 opinion about his ability to -- to safely perform his
19 job at Whirlpool?

20 **A. Possibly. Again, fatigue is just very**
21 **subjective term.**

22 Q. Sure.

23 **A. And it's just what he means by fatigue.**
24 **Is he lightheaded or dizzy? It depends. I mean,**

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1 **"fatigue" itself is just a very subjective term.**

2 Q. I understand. But it could have changed
3 your opinion?

4 A. **It could have possibly, yes.**

5 Q. Does it cause you any concern that
6 Mr. Wurzel is not reporting any of these symptoms to
7 you, dizziness, fatigue, lightheadedness?

8 MR. PEPPEL: I'm going to
9 object to the form of the question. But
10 you can answer.

11 THE WITNESS: Again, he could
12 have reported the symptoms. I don't have
13 them documented in my notes. It doesn't
14 mean that he did not report those kind of
15 symptoms. It could be that he mentioned
16 after he takes nitroglycerin, he gets
17 dizzy. Which I tell the patient, that's
18 expected with the nitroglycerin, that
19 it's going to drop the blood pressure
20 slightly; which I instruct the patient
21 that they need to sit down or lay down
22 before they take the nitroglycerin.

23 So as I said, it's not
24 documented in my letter. But he could

1 have mentioned that, because that's
2 something very common that we see in
3 someone that takes nitroglycerin, that he
4 might have some experience with mild
5 dizziness, so I don't feel that's
6 unusual.

7 MR. WIT: Can we take a short
8 break?

9 MR. LANDRY: Yeah, sure.

10 (A brief recess was had.)

11 BY MR. WIT:

12 Q. We're on Exhibit 9, I think, which is
13 your letter dated February 17, '09, reflecting a visit
14 you had on February 13.

15 **A. Yes.**

16 Q. So this would have been the next time you
17 see Mr. Wurzel after, I believe, June of '08; is that
18 right?

19 **A. No, we're -- okay.**

20 Q. I'm saying the next time you see him; is
21 that correct?

22 **A. Yes.**

23 Q. All right. And was this a regularly
24 scheduled appointment?

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1 **A. Yes.**

2 Q. Now, I noticed on -- in this letter under
3 the diagnoses --

4 **A. Uh-huh.**

5 Q. -- that angina pectoris has been added,
6 and I hadn't -- and it hadn't appeared in any of your
7 prior correspondence. And I guess my question is why?

8 **A. I don't feel -- I wonder if -- I don't**
9 **know who put that in my impression. Probably -- this**
10 **is a computer-generated thing. So I don't know if it**
11 **was included by a nurse, or that someone entered that**
12 **diagnosis by a nurse or Dr. Roush. But it's not me,**
13 **so --**

14 Q. Is that erroneous?

15 **A. No. I don't know why it was entered**
16 **so -- yeah, it's a mistake.**

17 Q. Mistake?

18 **A. Yes.**

19 Q. All right. And then, Abnormal exercise
20 nuclear study, was that performed at some point?

21 **A. No, that was indicating the same old one.**

22 Q. Okay. Because that also was added.

23 That wasn't on any of the -- oh, no, I'm sorry. It
24 was on some of the past ones.

1 Okay. So the addition of angina pectoris
2 is in error?

3 **A. I feel so, yeah.**

4 Q. All right. Okay. Were you aware or did
5 Mr. Wurzel report to you at this point in time,
6 February 13, '09, the frequency of his spasms?

7 **A. I'm pretty sure. I felt still he was**
8 **doing well.**

9 Q. But did he indicate to you how often his
10 spasms were occurring?

11 **A. I'm pretty sure he indicated, but I did**
12 **not include that in the --**

13 Q. And you have no independent recollection
14 as to how often they were occurring?

15 **A. No.**

16 Q. That's correct?

17 **A. Correct.**

18 Q. All right. Was it your opinion at this
19 point that -- or was it your impression at this point
20 that he was experiencing more along the daily spasm
21 line or more along the rare --

22 **A. More infrequent, so in between, yeah.**

23 Q. I notice you did mention here that he had
24 had three episodes of chest pain at work.

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1 **A. That was relieved promptly with**
2 **nitroglycerin.**

3 Q. Do you remember discussions surrounding
4 those episodes that you may have had with Mr. Wurzel?

5 **A. I could have, but I just -- it's not**
6 **included in the letter.**

7 Q. Did he provide to you any detail about
8 the level, severity of those spasms, or what had
9 happened in connection with those spasms or anything
10 associated with it?

11 **A. I don't recall. Again, I just don't**
12 **recall the conversation. I'm pretty sure, but I**
13 **remember that it just were relieved promptly with**
14 **nitroglycerin, within less than three minutes, so I do**
15 **not feel that they were severe enough.**

16 Q. Okay. Had you known that the spasms --
17 that he had actually -- I mean, there are records of
18 him having had at least five spasms at work in which
19 he had to go to the health center --

20 **A. Uh-huh.**

21 Q. -- between October and February. Had you
22 known that they were occurring more frequently than he
23 was telling you, would that have changed your opinion
24 as to the nature of his condition or the course of

1 treatment?

2 MR. PEPPEL: Object to the form
3 of the question.

4 THE WITNESS: Basically it would
5 not, because regardless, I was going to
6 make -- I made adjustment on his
7 medication at the time he saw me.

8 BY MR. WIT:

9 Q. Okay.

10 A. Because I added Ranexa at that time.

11 Looking at my note, I added one more agent to the
12 treatment of his symptoms.

13 Q. Right. That's in your Impression/Plan.

14 A. Correct.

15 Q. And Ranexa, what is that intended to do?

16 A. It's also to relieve a spasm, and this --
17 we prescribe it for patients who are intolerant to
18 long-acting nitroglycerin. Because he had experienced
19 headache in the past with long-acting nitrate.

20 Q. And that would be the nitro patch?

21 A. Patch, and Endur.

22 Q. As I read through Mr. Wurzel's medical
23 records, he reported severe headaches --

24 A. Headache.

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1 Q. -- when he took the patch?

2 A. Correct.

3 Q. What's the patch designed to do?

4 A. It's to deliver concentration of nitrate,
5 continuous nitrate throughout -- to the patient's body
6 throughout the day.

7 Q. So that the spasm doesn't occur?

8 A. Correct.

9 Q. And is Ranexa designed to do the same
10 thing?

11 A. Same thing, yes. Without presumed
12 headache.

13 Q. And do you know if Mr. Wurzel proceeded
14 with that course of treatment for Ranexa?

15 A. Yes.

16 Q. Is he still on it today?

17 A. From what I recall, the last time I saw
18 him, I don't think he experienced much improvement
19 with Ranexa, so we opted just to discontinue Ranexa.

20 Again, the other thing, Ranexa is
21 brand-new medication, only been available for the last
22 two years, and the study has not been published yet
23 for Prinzmetal angina, but we felt it's worth trying.

24 And that's the last visit I remember.

1 **Again, I don't have it in my last letter, but I**
2 **remember that we had to stop medication, because he**
3 **did not feel significant improvement with it.**

4 Q. Understood, understood. You also
5 indicated in your Impression/Plan here that you felt
6 Mr. Wurzel's symptoms are stable?

7 A. **Correct.**

8 Q. Stable in what sense?

9 A. **Stable that it's not more frequent -- I**
10 **mean, it's just not very frequent. I'm just -- and**
11 **it's not requiring a lot of nitroglycerin.**

12 Q. Not requiring a lot of nitroglycerin --

13 A. **Yeah, I mean --**

14 Q. -- in terms of how many?

15 A. **I mean, he's just requiring like one**
16 **nitroglycerin anytime that he get chest discomfort.**

17 Q. Is that what he's telling you?

18 A. **Again, that's what his letter is saying,**
19 **it's relieved promptly with one nitroglycerin in less**
20 **than three minutes.**

21 Q. So that he --

22 A. **That's what I got in the letter, yes.**

23 Q. So Mr. Wurzel is reporting to you that
24 when he has the spasm it's relieved by one nitro

Page 87

1 tablet?

2 **A. Yeah.**

3 Q. And that's an indication to you that it
4 is stable?

5 **A. It is stable.**

6 Q. All right. Did you ever tell Mr. Wurzel
7 that he could take up to 30 nitroglycerin tablets in a
8 day?

9 **A. No, I didn't.**

10 Q. No?

11 **A. No.**

12 Q. Would that --

13 **A. Because we always tell them five minutes**
14 **apart, up to three. That's a standard. We have also**
15 **a handout about nitroglycerin.**

16 Q. You do, okay.

17 **A. Uh-huh.**

18 Q. Is that something that you would
19 recommend or state to a patient, that it was okay or
20 permissible or safe to take up to 25 nitroglycerin
21 tablets in a day?

22 **A. No.**

23 Q. No. Why not?

24 **A. Because of blood pressure issues. Could**

1 **cause hypotension, decrease blood pressure.**

2 Q. Increase --

3 **A. Decrease in blood pressure.**

4 Q. Okay. So would it be dangerous for a
5 patient to take up to 25 nitroglycerin tablets in a
6 day?

7 **A. Yes. And that's when we recommend**
8 **long-acting nitroglycerin. If we are going to require**
9 **that much nitro, then I would definitely recommend a**
10 **long-acting nitrate rather than just going with p.r.n.**
11 **nitrate.**

12 Q. Had Mr. Wurzel informed the nurse at
13 Whirlpool that he had taken up to nine nitroglycerin
14 tablets in a day, would that cause you concern?

15 **A. Then, definitely I need to adjust his**
16 **medication. Definitely that's a concern.**

17 Q. Did Mr. Wurzel ever advise you that he
18 had taken up to nine nitroglycerin tablets in a day?

19 **A. I don't recall -- I don't recall. I**
20 **mean, just, I may have it in the chart, but I don't**
21 **recall.**

22 Q. Would that be information that would been
23 significant enough for you to have recorded it in one
24 of your letters?

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1 **A. Yes.**

2 Q. Knowing that information, would it change
3 your opinion about his ability to return to work or
4 the circumstances under which he could return to work?

5 **A. I mean, then I have to -- then like he is**
6 **not stable enough, that he needs further adjustment of**
7 **his medication.**

8 Q. So if he's taking up to nine tablets in a
9 day, then would it be an indication to you that the
10 condition is not stable?

11 **A. Is not stable.**

12 Q. Unstable?

13 **A. Uh-huh.**

14 Q. Yes?

15 **A. Is not stable, yes.**

16 Q. Did Mr. Wurzel ever indicate to you that
17 he had been found at Whirlpool slumped over a piece of
18 machinery in connection with a spasm?

19 **A. No.**

20 Q. Had you known that, would that change
21 your opinion as to the nature of his condition?

22 **A. Would have changed it.**

23 Q. How so?

24 **A. Again, "slumped over" could mean a lot of**

1 things. I don't know what he means. Slumped over
2 because the pain was severe enough that he had -- or
3 would he have syncope with it. That's all what --
4 that all means different things.

5 Q. Okay. But it would certainly --

6 A. But it would bring it to my attention.
7 That means I have to be adjusting his medication
8 further.

9 Q. Were you aware that it was -- that
10 Mr. Wurzel would often suffer a spasm at work and then
11 have to go home because of fatigue?

12 A. It could have, but it is not --

13 Q. Yeah, I'm asking you whether or not you
14 were aware of that.

15 A. I don't recall. I mean, I don't recall.

16 Q. You don't recall Mr. Wurzel ever
17 reporting that to you?

18 A. I mean, he reported that he had symptom
19 of pain at work, and that usually, from my
20 understanding, that the nurse let him -- would not let
21 him resume his job.

22 Q. That was your understanding?

23 A. That's my understanding.

24 Q. Do you know -- did Mr. Wurzel ever tell

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1 you that he requested to go home?

2 **A. I don't remember that conversation.**

3 Q. Or even that his daughter had to come get
4 him to take him home?

5 **A. I don't remember the conversation. And I**
6 **probably didn't -- I mean, he did not share that**
7 **information. I did not ask him this information**
8 **either.**

9 Q. Did Mr. Wurzel ever tell you how long he
10 would have to spend in the Whirlpool health center
11 pursuant to a spasm he was having?

12 **A. No.**

13 Q. Were he spending upwards of 15 to 20
14 minutes to an hour, would that cause you concern?

15 **A. Definitely, if it was interfering with**
16 **his job, definitely.**

17 Q. Might that also change your opinion in
18 terms of his ability to perform his position safely?

19 **A. As I said, I would have considered**
20 **adjusting his medication, sure.**

21 Q. Okay.

22 (Court Reporter marked Issa
23 Exhibit 10.)

24 BY MR. WIT:

1 Q. Okay. Exhibit 10 is a letter reflecting
2 a visit you had with Mr. Wurzel on April 14, '09,
3 correct?

4 A. Uh-huh.

5 Q. I'm sorry. You have to answer verbally.

6 A. Yes. I'm sorry, yes.

7 Q. Now, I notice that this visit is a
8 little -- it's two months as opposed to three months
9 out.

10 A. Yeah.

11 Q. And I'm wondering if there is a reason
12 for that.

13 A. Yes. Because I start him on Ranexa.
14 Anytime I start a patient, a patient on new drugs,
15 usually like them to come back sooner to see me.

16 Q. What are the potential side effects of
17 Ranexa, do you know?

18 A. Basically, dizziness possible, and lower
19 extremity edema, which is swelling of the legs.

20 Q. Yeah.

21 A. Again, it's -- I'm pretty sure there is a
22 long list reported in the PDR.

23 Q. We could look at the PDR?

24 A. Yeah. But it's not a common thing that

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1 **we get reported.**

2 Q. Okay. And referring you now to Exhibit
3 10, I notice that Ranexa is not -- no longer listed as
4 one of his medications there, but Ativan is. I'm
5 wondering why the change.

6 A. **I did not put him on the Ativan. That is**
7 **nothing that was prescribed by my office.**

8 Q. What is Ativan?

9 A. **It's anxiolytic. It's a medication for**
10 **anxiety.**

11 Q. For anxiety?

12 A. **Yeah.**

13 Q. That's not a medication that you
14 prescribed?

15 A. **No.**

16 Q. Do you have an independent recollection
17 that he was taking Ativan at this point, as of April
18 14, 2009?

19 A. **I think that was the first time that it**
20 **appeared on the record, yeah. It was the first time**
21 **that it appeared on our record that it was taken.**

22 Q. Could that have been something that his
23 primary care physician prescribed?

24 A. **I'm pretty sure.**

1 Q. And why is -- did you remove him from
2 Ranexa at this point?

3 **A. Most -- most likely what happened, the**
4 **patient called the office because they did not have --**

5 Q. Sorry to interrupt you. But perhaps if
6 you look at History of Present Illness, that might
7 help us.

8 **A. Yeah.**

9 Q. This indicates, and I'm quoting here,
10 "The patient, however, has not been taking Ranexa due
11 to the cost of medication and has done remarkably well
12 with the in frequent episodes of chest pain that is
13 relieved with nitroglycerin."

14 **A. Yes.**

15 Q. So he had stopped taking Ranexa?

16 **A. Because of the cost of the medication.**

17 Q. And he was doing --

18 **A. Well.**

19 Q. -- fine without it --

20 **A. Yes.**

21 Q. -- according to him. Okay.

22 (Court Reporter marked Issa
23 Exhibit 11.)

24 MR. WIT: Before we get to that,

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1 I don't have a copy of this, but why
2 don't we just mark this as 12.

3 (Court Reporter marked Issa
4 Exhibit 12.)

5 BY MR. WIT:

6 Q. Okay. Doctor, why don't you take a look
7 at Exhibit 12 before we talk about 11. I don't have
8 copies. I just found this this morning.

9 Okay. That appears to be another release
10 for Mr. Wurzel to return to work that you authorized;
11 is that right?

12 A. Correct.

13 Q. Is that consistent with your visit with
14 Mr. Wurzel on February 13, 2009?

15 MR. PEPPEL: Can we take one
16 second?

17 (Pause.)

18 THE WITNESS: Yes. That's the
19 same date.

20 MR. WIT: He confirmed that the
21 restriction was consistent with the
22 February 13 letter.

23 MR. PEPPEL: That's fine.

24 BY MR. WIT:

1 Q. Do you recall what caused you to issue
2 another release for Mr. Wurzel to return to work in
3 February of '09?

4 A. I don't.

5 Q. You don't?

6 A. Just, again, based on the visit, that I
7 thought his symptoms were stable so --

8 Q. Uh-huh. Okay.

9 A. -- he wants to go back to work and --

10 Q. Were you aware of the job that Mr. Wurzel
11 was performing as of February 2009?

12 A. No.

13 Q. Okay. Were you familiar at all with his
14 job responsibilities or the work environment within
15 which he was working as of February of '09?

16 A. Again, I don't have details on his job,
17 but I felt that he was able to perform any kind of
18 job, so that's, to me --

19 Q. Well, did Mr. Wurzel describe for you in
20 any level of detail what it was he was doing at
21 Whirlpool as of February 2009?

22 A. Again, could have, but I don't have
23 recollection of the whole thing again.

24 Q. Okay. Your opinion, however, as of

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1 February '09, hadn't changed in that you still thought
2 Mr. Wurzel was capable of performing any job without
3 restriction?

4 **A. I thought so.**

5 Q. Okay. Now, back to Exhibit 11.

6 **A. Uh-huh.**

7 Q. Which is the letter dated 7-23-09.

8 **A. Uh-huh.**

9 Q. Got it?

10 **A. Yes.**

11 Q. And this reflects a visit you had with
12 Mr. Wurzel on July 17, which would be three months
13 following the April?

14 **A. Uh-huh.**

15 Q. So this is a more regularly scheduled --

16 **A. Yes.**

17 Q. Okay. So I note at this point there is
18 another drug identified here, Simvastatin?

19 **A. Yes.**

20 Q. What is that?

21 **A. It's cholesterol medication.**

22 Q. Okay.

23 **A. Another term is Zocor.**

24 Q. The nitro is still at the same level in

1 terms of prescription, right?

2 **A. Yes.**

3 Q. And he's still getting 25 pills -- or 25
4 tablets per prescription?

5 **A. Prescription.**

6 Q. And you don't know how often he's
7 refilling that?

8 **A. I don't have.**

9 Q. Now, there's terminology I would like you
10 to describe for me. You indicate at the bottom of
11 History of Present Illness, "He has no dyspnea" --

12 **A. Shortness of breath.**

13 Q. Orthopnea is not waking up at night?

14 **A. Orthopnea, he is able to lay flat on his
15 back without being short of breath.**

16 Q. Okay. And then paroxysmal nocturnal
17 dyspnea.

18 **A. Not waking up at night to catch his
19 breath.**

20 Q. Okay. He's reporting none of that?

21 **A. None of that.**

22 Q. And describe for me why that is
23 significance in the course of your treatment.

24 **A. Basically those symptoms are just signs**

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1 of congestive heart failure. So he has no congestive
2 heart failure symptoms.

3 Q. Okay. Is it your opinion, or do you have
4 any opinion as to whether or not there is a
5 psychosomatic aspect to Mr. Wurzel's condition?

6 A. I cannot answer this question.

7 Q. You don't know one way or the other?

8 A. I don't know.

9 Q. Have you thought about that?

10 A. I mean, one of the things I've discussed
11 with Brian before, I said he could have some chest
12 pain that is not all related to his Prinzmetal angina,
13 and that's something we've discussed previously.

14 Q. All right.

15 A. So I do not feel that all the chest pain
16 he's had is related to his Prinzmetal angina.

17 Q. I understand.

18 A. And that's something that's clear between
19 me and Brian, because I told him before, I said, not
20 every chest pain you're going to have you have to take
21 a nitroglycerin for. And he's, I feel, very well
22 educated about his symptoms.

23 Q. And now you consistently note in your
24 reports that we have been looking at, Mr. Wurzel is

1 able to gain control over his angina with
2 nitroglycerin pills in a matter of minutes after the
3 onset.

4 **A. Yes, correct.**

5 Q. Is it possible that an individual with
6 Prinzmetal angina might become lightheaded, dizzy, or
7 even lose consciousness without any advanced warning?

8 **A. No.**

9 Q. It's completely impossible?

10 **A. I mean, it's very rare.**

11 Q. Okay.

12 **A. But that's -- again, it's rare. It's not**
13 **a common thing.**

14 Q. All right. Is it possible that someone
15 might experience that type of symptom, dizziness or
16 lightheadedness, before he can get to an angina -- I'm
17 sorry, a nitroglycerin tablet?

18 **A. Again, from my experience, I have not**
19 **seen it.**

20 Q. Okay.

21 **A. And although it's reported in the**
22 **literature, but everything is reported, too.**

23 Q. Sure. Now, Mr. Wurzel's smoking is a
24 consistent topic of discussion.

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1 **A. Yes.**

2 Q. Why is that?

3 **A. Because that's going to increase his risk**
4 **of developing atherosclerotic heart disease and lung**
5 **cancer.**

6 Q. Does it -- does the smoking itself
7 exacerbate the Prinzmetal angina in any way?

8 **A. It could be.**

9 Q. How would it do that?

10 **A. Again, because of the hormonal changes**
11 **that would cause increased risks of spasm, too.**

12 Q. Do you have any opinion as to whether or
13 not Mr. Wurzel's smoking is, in fact, exacerbating his
14 Prinzmetal angina?

15 **A. No.**

16 Q. You don't have any opinion or it isn't?

17 **A. I don't feel it's contributing. I mean,**
18 **it might be partially contributing. I cannot say it's**
19 **strong a contributor, but it might be playing an**
20 **effect. It might be.**

21 Q. How, in your opinion, does Mr. Wurzel's
22 condition impact his physical or mental abilities on a
23 day-to-day basis, if at all?

24 **A. I feel his symptoms are stable. I mean,**

1 just from what I feel, that after we got the correct
2 diagnosis for Mr. Wurzel and he is aware of his
3 condition, I feel that he is being more --

4 Q. So if we look back, then, between the --
5 when the condition is diagnosed to present day, do you
6 believe he is restricted in any way in terms of what
7 he can and can't do?

8 A. I don't feel he is restricted, no.

9 Q. So you feel he has no physical or mental
10 restrictions whatsoever?

11 A. No.

12 Q. Is that correct?

13 A. Correct.

14 Q. Are you aware that Mr. Wurzel was sent
15 for an independent medical evaluation in relation to
16 his condition?

17 A. No.

18 Q. Do you know --

19 A. The only thing I remember, he said he was
20 going to seek a second opinion through one of my
21 partners. That is the only thing I remember.

22 Q. Do you know who that was?

23 A. It was Dr. Stockton.

24 Q. Do you know if he ever sought a second

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1 opinion from another physician other than someone
2 within your organization?

3 **A. I was not aware, no.**

4 Q. Are you familiar with Dr. Haridas Biswas?

5 **A. Yes.**

6 Q. And he's a cardiologist in the Toledo
7 area, right?

8 **A. Correct, yes.**

9 Q. Do you know him by professional
10 reputation?

11 **A. I've heard of him, but I don't know him.**

12 Q. And you never worked with him before?

13 **A. No.**

14 Q. Are you aware that between May and June
15 of 2009, Dr. Biswas recommended that Mr. Wurzel work
16 only under close supervision, that he should not work
17 alone, near areas with an assembly line or moving
18 machinery, because of his Prinzmetal angina?

19 **A. No.**

20 Q. Are you aware that Dr. Biswas also
21 recommended that Mr. Wurzel should avoid working close
22 to potentially risky areas, such as areas with moving
23 objects, moving machinery or being around water or
24 pools?

1 **A. I was not.**

2 Q. As you sit here today, do you have any
3 opinion as to whether or not those recommendations
4 would be reasonable or unreasonable, given
5 Mr. Wurzel's condition?

6 **A. From what I know about Mr. Wurzel, I feel**
7 **that -- unless, again, I don't know what the symptoms**
8 **that was described with Dr. --**

9 Q. Biswas?

10 **A. Biswas, yeah. So based on the symptoms**
11 **that was reported to me, I feel that Mr. Wurzel is**
12 **able to perform his work. Again, if he got a**
13 **different story, that's different.**

14 Q. Okay. So had Dr. Biswas been advised of
15 associated dizziness or lightheadedness, taking of
16 multiple nitroglycerin tablets, that might impact
17 his -- and a medical opinion such that he would be
18 more restricted in terms of what he could and couldn't
19 do?

20 **A. Correct.**

21 Q. I mean, in your opinion, what type of
22 symptoms would Mr. Wurzel have to be exhibiting for
23 those types of restrictions, the ones I've just
24 described to you, to be put into place?

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1 A. He has to be having frequent symptoms on
2 a daily basis and unable to perform his work.

3 Q. Frequent symptoms of --

4 A. Like having to take multiple
5 nitroglycerin to relieve his symptoms; if he's taking
6 sporadic nitroglycerin, there is no need for
7 restrictions for him.

8 Q. So the more frequent the symptoms become,
9 the more likely it is that he should be restricted
10 from working in safety-sensitive positions?

11 A. Correct.

12 Q. Would it also be true that if he is
13 experiencing dizziness or lightheadedness in
14 connection with his symptoms or the taking of
15 nitroglycerin, that might also restrict his ability to
16 work in safety-sensitive positions?

17 A. It's possible, depending on the frequency
18 again.

19 Q. And as I say, it's not that he can't do
20 the job --

21 A. Uh-huh.

22 Q. -- it's that it would be unsafe for him
23 to do it, right?

24 A. I mean, I feel Safe. I just feel

1 **comfortable that he is able to perform his work.**

2 MR. WIT: Could we take like a
3 two-minute break? I might be pretty much
4 done.

5 MR. PEPPEL: Sure.

6 (A brief recess was had.)

7 BY MR. WIT:

8 Q. The last record I have of consultation
9 between you and Mr. Wurzel was that one we've just
10 discussed in July. Have you seen him since?

11 **A. No.**

12 Q. Were you aware that Mr. Wurzel had filed
13 a lawsuit against Whirlpool in relation to anything?

14 **A. In the last visit, actually, he told me**
15 **that I'm going to be subpoenaed.**

16 Q. Did he indicate to you at all what the
17 lawsuit was about?

18 **A. I asked about the lawsuit. He said that**
19 **he's trying to go back to work and Whirlpool is not**
20 **allowing him to go back to work. That's the**
21 **conversation we had very briefly.**

22 Q. So it's your understanding that
23 Mr. Wurzel is currently not working at Whirlpool?

24 **A. Correct.**

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1 Q. Do you know why that is, or did he tell
2 you why that is?

3 A. For this reason.

4 Q. For --

5 A. Whatever -- because he -- they're not
6 letting him go back to work.

7 Q. Okay. That's what he told you?

8 A. I mean, I assume so. I mean, I did not
9 ask him.

10 Q. Okay.

11 A. Again, I did not want to get involved.

12 Q. No, of course.

13 A. I did not want to get dragged into this
14 thing.

15 MR. WIT: Here you are anyway.

16 That's all the questions I have.

17 Do you have any questions?

18 MR. LANDRY: I just have a
19 couple.

20 - - -

21 EXAMINATION

22 BY MR. LANDRY:

23 Q. Doctor, we've introduced ourselves
24 earlier this morning. I'm representing Brian Wurzel.

1 The various diagnoses and course of
2 treatment that you prescribed and you wrote in the
3 various reports, do you believe that those are
4 accurate based on symptoms that were described to you?

5 **A. Yes.**

6 Q. Course of treatment?

7 **A. Yes.**

8 Q. And your recommendations as to
9 Mr. Wurzel's ability to return to work, you believed
10 those were accurate when you made those --

11 **A. Correct.**

12 Q. -- based on information that you had?

13 **A. Correct.**

14 Q. Right. And I know there's been some
15 questions as to -- there's been questions posed to you
16 as to opinions of Dr. Biswas. Do you have any
17 knowledge of what Mr. Wurzel may have told Dr. Biswas?

18 **A. No.**

19 Q. Do you have any knowledge as to when
20 Mr. Wurzel may have met with Dr. Biswas?

21 **A. No.**

22 Q. So you're really -- any questions that
23 were posed to you are really speculative, because you
24 don't have any information?

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1 **A. Correct.**

2 MR. LANDRY: Okay. With that I
3 don't have anything further.

4 MR. WIT: Do you have anything?

5 MR. PEPPEL: No. I will tell
6 you that you have the right to review the
7 deposition transcript to determine if
8 there are any typographical errors, or
9 you can waive that right, and it's
10 totally up to you.

11 THE WITNESS: Probably should
12 review it.

13 MR. PEPPEL: So we'll reserve.

14 MR. WIT: Thank you, sir.

15 (Deposition concluded and
16 witness excused at 11:20 a.m.)

17 (Signature reserved.)

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SIGNATURE PAGE

Date of Deposition: October 29, 2009

Correction page(s) enclosed? Yes ___ No ___

How many correction pages? _____

Date MARK G. ISSA, D.O., F.A.C.C.

- - -

Subscribed to before me this _____ day

of _____, 2009.

NOTARY PUBLIC

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C E R T I F I C A T E

I, Casey G. Schreiner, a Notary Public in and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within-named witness was by me first duly sworn to tell the truth, the whole truth, and nothing but the truth in the cause aforesaid; that the testimony then given was by me reduced to stenotype in the presence of said witness and afterwards transcribed; that the foregoing is a true and correct transcription of the testimony so given as aforesaid.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified.

I do further certify that I am not a relative, employee of or attorney for any of the parties in this action; that I am not a relative or employee of an attorney of any of the parties in this action; that I am not financially interested in this action, nor am I or the court reporting firm with which I am affiliated under a contract as defined in the applicable civil rule.

1 IN WITNESS WHEREOF, I have hereunto set my
2 hand and affixed my seal of office at Toledo, Ohio on
3 this 9th day of November, 2009.

4
5 
6 -----
7 CASEY G. SCHREINER, RMR-RDR
8 Notary Public
9 in and for the State of Ohio

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My Commission expires December 8, 2011.

A	89:6	54:1 56:1,3	appointment	16:12 31:8
abilities	admission	56:6,6,13	34:18 52:8	39:2,3,11
101:22	51:16	56:17,20,21	80:24	40:2 46:11
ability 59:23	advanced 17:9	56:23 67:23	approximately	46:16 66:22
69:6 78:18	100:7	81:5 82:1	49:23	67:12 74:19
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